

3765/B

ATTORNEY DOCKET NO.: 03269.0016U2
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Segars, *et al.*

Serial No.: 10/017,099

Filed: December 13, 2001

For: "BOW AND SKEW CONTROL
SYSTEM"

Group Art Unit: 3765

Examiner: Nerbun, Peter P.

Confirmation No. 6494

H14
12-1-3

ELECTION UNDER RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C
Customer No. 23859

November 14, 2003

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TECHNOLOGY CENTER R3700

Sir:

This communication is responsive to the Office Action mailed September 15, 2003. The Examiner has restricted the application and has required an election of one of the following Groups: (I) Claims 1-18 and 47, drawn to a method of controlling bow and skew of a backing material fed through tufting machines, classified in class 112, subclass 475.23; and (II) Claims 19-46, drawn to a system for controlling bow and skew of a backing material fed through a tufting machine utilizing a detection device and a controller coupled to the detection device, classified in class 112, subclass 80.23. See Office Action, at 2.

The Applicant provisionally elects Group II with traverse and, accordingly, provisionally elects Claims 19-46.

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For a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden on the Examiner. *See* M.P.E.P. § 803. The Applicants respectfully request that the restriction requirement be reconsidered because the Examiner has not met the burden of demonstrating that a serious burden would be required to examine all the claims:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

M.P.E.P. § 803 (emphasis added). There has been no showing that it would be a serious burden to search and examine the groups together. In fact, the groups are both classified in class 112. Because little or no additional burden would be required to search and examine the groups together, the Applicants respectfully submit that the Examiner should search and examine the groups together. Indeed it would be most efficient to keep them together. Consequently, reconsideration and modification or withdrawal of the restriction requirement is requested.

Applicants await an action on the merits.

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No fee is believed due. However, the Commissioner is hereby authorized to charge any fees which may be required to Deposit Account No. 14-0629.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this ELECTION UNDER RESTRICTION REQUIREMENT is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.


Bernard L. Zidar

11/14/03
Date